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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,621	12/30/2003	Ali R. Rezai	26336-10067	8232

26294 7590 09/27/2006

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EXAMINER

ALTER, ALYSSA M

ART UNIT PAPER NUMBER

3762

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/749,621	<b>Applicant(s)</b> REZAI ET AL. <span style="float: right;">✓</span>	
	<b>Examiner</b> Jeffrey R. Jastrzab	<b>Art Unit</b> 3762	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-5,7-15,18-32 and 36-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 15,29-32 and 36-41 is/are allowed.
- 6) ☐ Claim(s) 1-5,7,8,12,13,18-22 and 25-28 is/are rejected.
- 7) ☐ Claim(s) 9-11,14,17,23 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments and amendments, see the papers, filed 9/11/06 have been fully considered, however are not completely persuasive.

### ***Claim Rejections - 35 USC § 112***

Claims 18 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims improperly depend from canceled claims thus making them indefinite.

### ***Claim Rejections - 35 USC § 102***

Claims 1, 7, 8, 12, 13, 22, 25-28 stand rejected under 35 U.S.C. 102(e) as being clearly anticipated by Singhal et al., US-2005/0004637.

Applicants argue that the added term "distinct" when discussing the lead sections defines over the Singhal configuration. However, in looking at Applicants' figures, the same portions of the lead retained in the groove of Singhal are retained in the open coil retainer configuration shown for example in Applicants' Figure 4E. There is no clear delineation that these portions are distinct in any way other than possibly distance from an adjacent lead loop, which would not necessarily be distinct, only linearly displaced. Applicants state that Claims 25 and 26 are amended, however they are not, thus the

corresponding arguments are moot. Thus the amendments fail to overcome this rejection, which now stands FINAL.

Claims 1-5, 7, 8, 12, 20-22, 25-28 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Pianca et al., US-7,004,948. anticipated by Singhal et al., US-2005/0004637.

Applicants argue that the added term "distinct" when discussing the lead sections defines over the Pianca et al. configuration. However, in looking at Applicants' figures, the same portions of the lead retained in the cavity of Pianca are retained in the open coil retainer configuration shown for example in Applicants' Figure 4E. There is no clear delineation that these portions are distinct in any way other than possibly distance from an adjacent lead loop, which would not necessarily be distinct, only linearly displaced. Applicants state that Claims 25 and 26 are amended, however they are not, thus the corresponding arguments are moot. As to Claims 2 -5, Applicants argue with respect to Figure 8A of Pianca, however, the living hinge embodiment is clearly depicted in Figure 9A. Thus the amendments fail to overcome this rejection, which now stands FINAL.

#### ***Allowable Subject Matter***

Claims 9-11, 14,17, 23 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 18 and 19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 15, 29-32 and 36-41 are allowed.

### ***Conclusion***

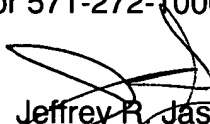
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Jastrzab whose telephone number is (571) 272-4947. The examiner can normally be reached on M-R 5:30 a.m. to 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D. Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jeffrey R. Jastrzab  
Primary Examiner  
Art Unit 3762  
9/19/04